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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,632	04/01/2004	Bret Sabold	29953-199349	7560
26694	7590	03/30/2006	EXAMINER	
VENABLE LLP			WEAVER, SUE A	
P.O. BOX 34385			ART UNIT	
WASHINGTON, DC 20045-9998			PAPER NUMBER	

3727

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,632

Applicant(s)

SABOLD ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 11 and 16-18 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 19-21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/13/06</u> | 6) <input type="checkbox"/> Other: _____ |

1. The drawings were received on 1/13/06. These drawings are unacceptable.

Drawing figure 2 contains black lines in the truss.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the thickness of the ridges and panels as claimed in claims 8 and 16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is

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required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 was canceled in the amendment 1/13/06.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "The container" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. Claims 1, 2, 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewing, Jr. '790, of record.

Member 22 defines the dome while member 16 defines the waist with alternating ribs and grooves to increase the mechanical strength of the container. This is considered to inherently include top load and hoop strength as is well-known in the art.

6. Claims 12, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanabe et al '992, of record.

Note members 16 and 18 defining an undulating surface or truss construction providing top load strength in the waist portion of the container and inherently providing hoop strength as well.

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7. Claims 1-5 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claims 12, 13 and 19 above, and further in view of Gaydosh et al '932, cited by applicants.

To have formed the undulation structure below a dome and between ridges in the manner taught by Gaydosh et al at 44,46 would have been obvious.

8. Claims 6, 7, 14, ~~15~~₁₅, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 3, 12 and 19 above, and further in view of Musson '020.

To have formed the undulations in the waist as panels with apexes and grooves in the manner of Musson would have been an obvious matter of design choice.

9. Claims 8, 11 and 16-18 are allowed while claims 9 and 22 have been canceled.

10. Applicant's arguments with respect to claims 1-7, 10, 12-15, 19-21 and 23 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments, see page 9 of the amendment, filed 1/13/06, with respect to the objection to the disclosure and 112 rejection of claims 5 and 13 have been fully considered and are persuasive. The objection and 112 rejection of claims 5 and 13 have been withdrawn.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents show other containers with waists having undulations.

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Typed or printed name of person signing this certificate:

Signature: _____

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Typed or printed name of person signing this certificate:

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Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

SW


SUE A. WEAVER
PRIMARY EXAMINER
GROUP 3200